THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14497 of 1997

Dated: 07.03.2007

Between:

S. Mastanvalli.

.... PETITIONER

AND

The Vice Chairman & Managing Director,
APSRTC, Musheerabad, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14497 of 1997

ORDER:

The petitioner states that his father, namely S. Munaf, died in harness on 07.09.1986, while working as Driver in the respondent-Corporation. When his father died, he was aged about 13 years, and therefore, after attaining majority, his mother made applications on 02.02.1993 and 19.04.1996 to the respondent-Corporation seeking appointment on compassionate grounds to him, but, no orders thereon had been passed by the respondent-Corporation so far. Hence, the petitioner filed the present writ petition seeking to direct the respondent-Corporation to appoint him either in the post of Cleaner or in any other suitable post.

2. The contention of the learned counsel for the petitioner is that as per the guidelines issued by the respondent-Corporation in the Circular, dated 07.07.1978, the candidate, who was minor at the time of death/retirement of his parent and who becomes major after five years from the date of death of employee, is entitled to employment on compassionate grounds. He further contended that since the petitioner made an application for providing employment as soon as he attained majority, the petitioner is entitled to appointment on compassionate grounds, as per the guidelines issued by the respondent-Corporation in the said

Circular, but the action of the respondents in not considering the case of the petitioner for appointment on compassionate grounds, is illegal and arbitrary. He thus, prays to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds in any suitable post.

3. The respondents filed counter affidavit *inter alia* stating that the petitioner's mother never made any representation seeking appointment on compassionate grounds to the petitioner. It is stated that as on the date of death of the employee, the petitioner was only 12 years old, and therefore, he was not entitled for appointment. It is further stated that at the request of the petitioner's mother, the respondent-Corporation sanctioned an amount of Rs.26,590-30 ps. towards additional monetary benefit *in lieu of* compassionate appointment, and deposited the same in State Bank of India, Piler Branch, through letter, dated 28.02.1987, and the same was kept in fixed deposit till 31.01.1998. The mother of the petitioner, being the spouse of the deceased employee, having accepted and received the additional monetary benefit *in lieu of* compassionate appointment, the petitioner now cannot contend that he is entitled to seek appointment on compassionate grounds, and that too after lapse of nearly ten years after the death of his father, and as such, the question of providing employment to the petitioner, much less on compassionate grounds, does not arise.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Organization.

5. The main object for granting compassionate appointment to the family member of a deceased is to enable the family of the deceased

to tide over the sudden crises that befalls on the death of the sole bread winner and grant of compassionate employment is not a matter of right. The apex Court in **Shri Umesh Kumar Nagpal v. State of Haryana and others**[1], has noted the objects of granting compassionate employment, and they are:

> **I.(i)** To enable the family to tide over the sudden crisis by the death of the sole bread winner;
> **(ii)** To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
> **II.** Mere death of an employee in harness does not entitle his family to such source of livelihood.
> **III.** The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
> **IV.** The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
> **V .** Consideration for compassionate employment is not a vested right to be exercised at any time in future.

6. Though the petitioner contends that as per the guidelines issued by the respondent-Corporation in Circular, dated 07.07.1978, the candidate, who was minor at the time of death/retirement of his parent, attains majority after five years from the date of death of employee, is entitled to employment on compassionate grounds, and despite his mother making representations, the respondents did not consider the same, the fact remains, the respondents denied about the petitioner's mother making any such representations, and on the other hand, it is their specific case that the mother of the petitioner requested the respondent-Corporation to pay additional monetary benefit *in lieu of* compassionate appointment, and acting on such request, the respondents sanctioned an amount of Rs.26,590-30 ps towards

additional monetary benefit *in lieu of* compassionate appointment, and kept the same in fixed deposit up to 31.01.1998 in State Bank of India, Piler Branch, through letter, dated 28.02.1987. Had not the petitioner's mother received any additional monetary benefit *in lieu of* compassionate appointment, the petitioner would have been justified in seeking compassionate appointment, but inasmuch as the petitioner's mother was already paid additional monetary benefit *in lieu of* compassionate appointment, no exception can be taken to the action of the respondents in not considering the case of the petitioner for providing compassionate appointment.

7. The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 07.03.2007

sj

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[1] 1994 (4) SCC 138